

(2) *the local organization has existed for the three preceding years and during those years:*

(A) *has had a governing body or officers elected by a vote of its members or by a vote of delegates elected by its members; or*

(B) *has been formally recognized as a local chapter, affiliate, unit, or subordinate lodge of the grand lodge or other institution or order;*

(3) *neither the local organization nor the incorporated grand lodge or other institution or order:*

(A) *devotes a substantial part of its activities to attempting to influence legislation; or*

(B) *participates or intervenes in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions; and*

(4) *either the local organization or the incorporated grand lodge or other institution or order qualifies for and has obtained an exemption from federal income tax from the Internal Revenue Service under Section 501(c), Internal Revenue Code of 1986, or other applicable provision.*

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Passed the Senate on April 7, 2005: Yeas 31, Nays 0; passed the House on April 29, 2005: Yeas 142, Nays 0, two present not voting.

Approved May 9, 2005.

Effective May 9, 2005.

CHAPTER 35

S.B. No. 796

AN ACT

relating to the combative sports program.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2052.002, Occupations Code, is amended to read as follows:

Sec. 2052.002. DEFINITIONS. In this chapter:

(1) "Amateur" means a person who has never received or competed for any purse or other thing of value, including reimbursement for expenses related to training or to participation in a combative sports event, that exceeded the maximum amount established by an amateur combative sports association.

(2) "Amateur combative sports association" means an organization that has nonprofit status under the laws of this state or under federal law and that produces, arranges, advertises, conducts, or stages combative sports events in which all the contestants are amateurs.

(3) "Boxing" means to compete with the fists.

(4) "Combative sports" means sports, including boxing, kickboxing, martial arts, and mixed martial arts, in which participants voluntarily engage in full contact to score points, to cause an opponent to submit, or to disable an opponent in a contest, match, or exhibition. The term does not include student training or exhibitions of students' skills conducted by martial arts schools, or associations of schools, where the students' participation is for health and recreational purposes rather than competition and where the intent is to use only partial contact ~~[includes kickboxing, in which a person delivers blows~~

~~with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot.~~

~~[(2) "Boxing promoter" means a person who arranges, advertises, or conducts a boxing event.~~

~~[(3) "Championship tournament" means a state, regional, national, or international elimination tournament in which the winners of elimination tournaments compete for a championship in each weight category].~~

(5) [(4)] "Commission" means the Texas Commission of Licensing and Regulation.

(6) "Contest" means a combative sports engagement in which the participants strive earnestly to win.

(7) [(5)] "Department" means the Texas Department of Licensing and Regulation.

(8) [(6)] "Elimination tournament" means a *combative sports* [boxing] contest in which [elimination tournament] contestants compete in a series of matches until not more than one contestant remains in any weight category. The term does not include an [a boxing] event described by Section 2052.110.

~~(9) [(7) "Elimination tournament boxing promoter" means a person who arranges, advertises, or conducts an elimination tournament.~~

~~[(8) "Elimination tournament contestant" means a person who competes in an elimination tournament.~~

~~[(8-a)] "Executive director" means the executive director of the department or the executive director's designated representative.~~

(10) [(9)] "Exhibition" means a *combative sports* [boxing or wrestling] skills demonstration.

(11) [(10)] "Event" means a contest, match, or exhibition.

(12) [(11)] "Judge" means a person who is:

~~[(A) located at ringside during a boxing match; and~~

~~[(B)] responsible for scoring the performances of the participants in a [the] match.~~

(13) "Kickboxing" means to compete by delivering blows with the fists, arms, feet, legs, or any combination thereof.

(14) "Martial arts" means any one of the individual disciplines described by rule adopted by the commission in which the contestants engage in unarmed combat using the applicable techniques to grapple with, kick, or strike an opponent to win a contest by causing an opponent to submit or by scoring points against or disabling an opponent.

(15) "Match" means any contest or exhibition.

(16) "Mixed martial arts" means unarmed combat involving the use of a combination of techniques from different disciplines of the martial arts including grappling, kicking, and striking and may include the use of full, unrestrained physical force.

~~(17) [(12) "Local tournament" means an elimination tournament in which only a resident of this state may compete.~~

[(13)] "Professional *combative sports* contestant [boxer]" means a person who competes in a *combative sports* [boxing] event in this state conducted for a purse or compensation.

(18) [(13-a)] "Promoter" means any person who produces, arranges, advertises, conducts, or stages a *combative sports* event [a boxing promoter or wrestling promoter].

(19) [(14)] "Referee" means a person who:

(A) is present in the ring during a match [boxing event]; and

(B) exercises general supervision of the match [event].

~~(20) [(15) "Regional tournament" means an elimination tournament in which a contestant from outside of the immediate area in which the tournament is conducted may compete against local contestants.~~

[(15-a)] "Ringside physician" means an individual licensed to practice medicine in this state who is registered with the department.

~~[(16) "Wrestling promoter" means a person who arranges, advertises, or conducts a wrestling event.]~~

SECTION 2. Subsection (b), Section 2052.052, Occupations Code, is amended to read as follows:

(b) The commission may adopt rules:

(1) governing *boxing*, ~~[professional]~~ kickboxing, *martial arts*, or *mixed martial arts* contests and exhibitions;

(2) establishing reasonable qualifications for an applicant seeking a license or registration from the department under this chapter;

(3) recognizing a sanction, medical suspension, or disqualification of a *licensee or registrant* ~~[license holder]~~ by a combative sports authority in any state, provided that if licensure or registration is denied based on those actions, an applicant has *an opportunity* for ~~[a right to]~~ a hearing as prescribed by rule;

(4) establishing practice requirements or specialty certifications that a person licensed to practice medicine in this state must meet to register as a ringside physician;

(5) requiring a contestant to present *with an application for licensure or license renewal documentation* ~~[to the executive director at the time of weigh-in in an original copy]~~ of recent blood test results that demonstrate whether the contestant is free from hepatitis B virus, hepatitis C virus, human immunodeficiency virus, and any other communicable disease designated by commission rule and providing that a contestant's failure to provide the required blood test results disqualifies the contestant;

(6) providing that to participate in any event a contestant must be free of hepatitis B virus, hepatitis C virus, human immunodeficiency virus, and any other communicable disease designated by rule;

(7) requiring that a contestant *present with an application for licensure or license renewal documentation of the results of* ~~[undergo]~~ a physical examination, including an *ophthalmologic* ~~[ophthalmological]~~ examination, ~~[at or near the time of weigh-in]~~ and providing for disqualification of a contestant who is determined by an examining physician to be unfit; ~~[and]~~

(8) establishing additional responsibilities for promoters; *and*

(9) *governing regulated amateur events.*

SECTION 3. Subsection (a), Section 2052.055, Occupations Code, is amended to read as follows:

(a) The presiding officer of the commission, with the commission's approval, may appoint a medical advisory committee to advise the department concerning health issues for *combative sports* ~~[boxing]~~ event contestants.

SECTION 4. Section 2052.101, Occupations Code, is amended to read as follows:

Sec. 2052.101. ~~[BOXING]~~ PROMOTER LICENSE. A person may not act as a ~~[boxing]~~ promoter ~~[or an elimination tournament boxing promoter]~~ unless the person holds *the appropriate* ~~[a]~~ license issued under this chapter.

SECTION 5. The heading to Section 2052.102, Occupations Code, is amended to read as follows:

Sec. 2052.102. ~~[BOXING]~~ PROMOTER LICENSE APPLICATION REQUIREMENTS.

SECTION 6. Subsection (a), Section 2052.102, Occupations Code, is amended to read as follows:

(a) An applicant for a ~~[boxing]~~ promoter's license under this chapter must apply on a form furnished by the executive director.

SECTION 7. Section 2052.107, Occupations Code, is amended to read as follows:

Sec. 2052.107. OTHER COMBATIVE SPORTS ~~[BOXING]~~ LICENSES. Unless a person holds a license or registration issued under this chapter, the person may not act as a *combative sports*:

(1) professional contestant ~~[boxer]~~;

- (2) manager of a professional *contestant* [~~boxer~~];
- (3) referee;
- (4) judge;
- (5) second;
- (6) timekeeper;
- (7) matchmaker; or
- (8) ringside physician.

SECTION 8. Section 2052.110, Occupations Code, is amended to read as follows:

Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. *If the contestants are amateurs, the [The] licensing and bonding requirements of this chapter [subchapter] do not apply to:*

- (1) [~~a boxing event in which the participants do not receive a money remuneration, purse, or prize for their performances or services if the event is promoted, conducted, or maintained by:~~

- [(A) an educational institution;

- [(B) a law enforcement organization;

- [(C) a Texas National Guard Unit; or

- [(D) an amateur athletic organization recognized by the executive director;

- [(2) an event conducted by a nonprofit amateur athletic association chartered under the law of this state, including a membership club affiliated with the association located within this state and recognized by the executive director;

- [(3)] an event conducted by a college, school, or university that is part of the institution's athletic program in which only students of [different] educational institutions participate;

- (2) [(4)] an event *which is conducted by [in which only members of] a troop, battery, company, or unit of the Texas National Guard or a law enforcement agency and in which only members of military or law enforcement organizations participate; or*

- (3) [(5)] an event *which is conducted by an organization of the Olympic Games, the Paralympic Games, or the Pan-American Games and in which participants train or compete for advancement to or within the games.*

SECTION 9. Section 2052.111, Occupations Code, is amended to read as follows:

Sec. 2052.111. DENIAL OF APPLICATION. The executive director may deny an application for a license *or registration* if:

- (1) the applicant does not meet the qualifications for the license *or registration*; or
- (2) after conducting an investigation and *providing an opportunity for a hearing*, the executive director determines that the applicant has violated this chapter or a rule adopted under this chapter.

SECTION 10. Section 2052.113, Occupations Code, is amended to read as follows:

Sec. 2052.113. LICENSE AND PERMIT REQUIRED FOR CLOSED CIRCUIT [~~BOXING~~] TELECAST. A person who exhibits in this state a simultaneous telecast of a live, spontaneous, or current *combative sports* [~~boxing~~] event on a closed circuit telecast in which a fee is charged for admission to the telecast must:

- (1) hold a [~~boxing~~] promoter's license under this chapter; and
- (2) obtain a permit for the closed circuit telecast.

SECTION 11. Subchapter C, Chapter 2052, Occupations Code, is amended by adding Sections 2052.116 and 2052.117 to read as follows:

Sec. 2052.116. AMATEUR COMBATIVE SPORTS ASSOCIATION REGISTRATION. *A person may not act as an amateur combative sports association unless the person is registered under this chapter.*

Sec. 2052.117. AMATEUR COMBATIVE SPORTS ASSOCIATION REGISTRATION REQUIREMENTS. (a) *An applicant for registration as an amateur combative sports association must apply on a form acceptable to the executive director.*

(b) *An application must be accompanied by:*

- (1) *a registration fee in the amount set by the commission;*
- (2) *proof of compliance with requirements established by rule for:*
 - (A) *insurance; and*
 - (B) *surety bonds, if any;*
- (3) *a copy of the rules of the association establishing standards of conduct for contestants and officials; and*
- (4) *proof that the association is recognized or organized as a nonprofit organization under the laws of this state or has such status under federal law.*

(c) *Rules of the association must be approved by the department.*

SECTION 12. Section 2052.151, Occupations Code, is amended to read as follows:

Sec. 2052.151. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on a person who:

- (1) conducts a *combative sports* [boxing] event[~~including an elimination tournament,~~] in which a fee is charged for admission to the event; *or*
 - (2) exhibits in this state a simultaneous telecast of a live, spontaneous, or current *combative sports* [boxing] event on a closed circuit telecast, in which a fee is charged for admission to the telecast[~~or~~];
 - ~~[(3) conducts or sponsors an amateur boxing event, other than an event exempt from licensing under Section 2052.110(2), (3), (4), or (5), in which a fee is charged for admission to the event].~~
- (b) The ~~[rate of the]~~ tax is three percent of the gross receipts obtained from the *sale of tickets to the event, plus three percent of gross receipts received from sales of broadcast rights or \$30,000, whichever is less.*

SECTION 13. Subsections (a) and (b), Section 2052.152, Occupations Code, are amended to read as follows:

(a) A person on whom a tax is imposed under Section 2052.151, not later than *three business days* [72 hours] after the end of the event or telecast for which the tax is due, shall submit to the department a verified report on a form *acceptable to* [furnished by] the department stating:

- (1) the number of tickets sold to the event;
 - (2) the ticket prices charged;
 - (3) the gross price charged for the sale or lease of broadcasting, television, and motion picture rights without any deductions for commissions, brokerage fees, distribution fees, advertising, or other expenses or charges; and
 - (4) the amount of gross receipts obtained from the event.
- (b) The person shall attach to the report a cashier's check, *check*, or money order payable to this state in the amount of the tax imposed on the event covered by the report.

SECTION 14. Section 2052.153, Occupations Code, is amended to read as follows:

Sec. 2052.153. CLOSED CIRCUIT TELECAST. A person exhibiting a simultaneous telecast of a live, spontaneous, or current *combative sports* [boxing] event on a closed circuit telecast *that occurs in Texas* in which a fee is charged for admission to the exhibition:

- (1) must:
 - (A) be a [boxing] promoter; and
 - (B) obtain a permit for each telecast exhibited; and
- (2) shall comply with the tax provisions of *Sections* [Section] 2052.151 and 2052.152.

SECTION 15. Section 2052.251, Occupations Code, is amended to read as follows:

Sec. 2052.251. [BOXING] GLOVES. A *combative sports* [boxing] event contestant[~~other than an elimination tournament contestant under Subchapter E,~~] shall wear [eight ounce boxing] gloves of the type and weight specified by commission rule, unless the commission by applicable rule requires or permits contestants [a contestant] to not wear [heavier] gloves.

SECTION 16. Section 2052.252, Occupations Code, is amended to read as follows:

Sec. 2052.252. *REGULATED [CERTAIN] AMATEUR EVENTS.* (a) This section applies to an amateur *combative sports* [~~boxing~~] event, other than an event described by Section 2052.110 [2052.110(2), (3), (4), or (5) or an elimination tournament subject to Subchapter E], in which a fee is charged for admission to the event.

(b) *The amateur combative sports association sponsoring or producing the event shall register with the department not later than 30 days before the date the event begins.*

(c) The event may take place only if the executive director approves the event not later than seven days before the date the event begins.

(d) [(e)] Each contestant [~~entry~~] in the event must have been a member of the amateur combative sports association for the 30-day period immediately preceding [~~be filed with the amateur organization not later than the third day before~~] the date the event begins and must be a member on the date of the event.

(e) [(d)] The amateur combative sports association [~~organization~~] shall determine the amateur standing of the event contestants and shall establish training programs consisting of at least 30 days of training for each contestant.

(f) [(e)] The event is subject to the supervision of the executive director.

[(f)] All profits from the event must be used to develop amateur athletics.]

(g) [Only a referee or judge licensed under this chapter may participate in the event.

[(h)] Each contestant participating in the event must be examined by a licensed physician within a reasonable time before the event begins. A licensed physician must be present at ringside during the entire event.

(h) [(g)] A professional combative sports contestant [~~boxer~~] licensed under this chapter may not participate as a contestant [~~in any capacity~~] in the event.

SECTION 17. Subchapter F, Chapter 2052, Occupations Code, is amended by adding Section 2052.254 to read as follows:

Sec. 2052.254. *ELIMINATION TOURNAMENTS.* An elimination tournament may not be conducted in this state.

SECTION 18. The following provisions of the Occupations Code are repealed:

(1) Sections 2052.103, 2052.105, and 2052.106; and

(2) Subchapter E, Chapter 2052.

SECTION 19. This Act takes effect September 1, 2005.

Passed the Senate on April 7, 2005: Yeas 31, Nays 0; passed the House on April 29, 2005, by a non-record vote.

Approved May 9, 2005.

Effective September 1, 2005.

CHAPTER 36

S.B. No. 877

AN ACT

relating to the direct shipment of wine to consumers; providing a criminal penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 16, Alcoholic Beverage Code, is amended by adding Section 16.09 to read as follows:

Sec. 16.09. *DIRECT SHIPMENT TO CONSUMERS.* (a) The holder of a winery permit may ship wine to the ultimate consumer, including ultimate consumers located in dry areas. Delivery must be by the holder of a carrier permit.